

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12964 of 2000

with

CIVIL APPLICATION No.7476 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

MUSLIM LAGHUMATI KELAVANI MANDAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12964 of 2000
MR CHETAN K PANDYA for Petitioner No. 1
MR GORI, Ld. AGP for Respondent No. 1-3
MR AD OZA for Respondent No. 4
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CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 23/10/2002

ORAL JUDGEMENT

1. Heard Mr.Pandya, learned Counsel for the petitioner, Mr.A.D.Oza, learned Counsel for the respondent Board and Mr.Gori, learned AGP for respondents No.1, 2, and 3.

2. The grievance raised in this petition is that the permission was granted for opening new school on condition that the petitioner shall not claim any grant from the State Government and as mentioned in the order dated 28-7-1999, deed of declaration was also to be submitted by the petitioner. The said order dated 28-7-1999 of the State Government is challenged by the petitioner by preferring this petition for the purpose of grant of permission with the grant facility. The main SCA was admitted by this Court as per the order dated 22-1-2001.

3. Thereafter, it appears that the petitioner did not submit the declaration as required and opened the school since the petition was pending and as if the subject matter of SCA is regarding grant facility only. The petitioner admitted certain students in the school also and when the forms for examinations were submitted the deed of declaration was insisted, which was submitted by the petitioner in the year 2002, but without prejudice to the rights and contentions to the petitioner in SCA No.12961/2000. Since the authority did not accept the same, the petitioner preferred Civil Application No.7476/2002.

4. Today, when the matter came up for hearing, Mr.Pandya for the petitioner, under the instructions from the President of the Trust, stated that they are desirous to withdraw the petition if, in the larger interest of the students, the petitioner may be permitted to continue with the school and forms submitted by the petitioner school may be accepted by the Board and the declaration may be treated as unconditional declaration since the petitioner Trust is now not insisting for any grant facility, even though it is a minority institution.

5. Mr.Oza, appearing for the respondent Board, submits that the declaration was to be submitted within the stipulated time limit and since within the stipulated time limit the declaration was not submitted, the permission can be said to have been lapsed. He also submitted that until the registration was granted the petitioner could not have started with the school merely

because the petition was admitted by this Court and no interim order was granted. However, for the purpose of protecting the interest of the students, he has left the matter to the Court.

6. Considering the facts and circumstances of the case, more particularly in view of the fact that the petition was pending and was admitted by this Court, I am of the view that if the following directions are given the same would not prejudice the respondent Board and the interest of the students shall be sufficiently protected:

6.1 The respondent Board shall accept the deed of declaration already submitted as per the letter dated 17-7-2002 as unconditional declaration and as compliance to the order dated 28-7-1999.

6.2 The respondent Board, after the acceptance of the deed of declaration, shall, consider the matter for the purpose of grant of registration to the petitioner school, keeping in mind that the students who are already studying in the petitioner school are sufficiently protected.

6.3 The respondent Board shall also consider the matter for the purpose of acceptance of the forms for examinations of the students in view of the fact that the deed of declaration is submitted by the petitioner unconditionally and the petitioner has shown willingness to withdraw this petition.

7. In view of the aforesaid directions, the petitioner is permitted to withdraw this petition. Subject to the aforesaid observations and directions, the petition is disposed of as withdrawn. Direct service is permitted.

23-10-2002 (Jayant Patel, J.)

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